

 KENTUCKY CORRECTIONS Policies and Procedures	Policy Number	Total Pages
	1.1	3
	Date Filed	Effective Date
	*	August 31, 2012
References KRS 12.210, 12.211, 12.212, 12.213, 12.220 ACA 4-4023, 2-CO-1A-28, P & P ACA 3-3031	Subject LEGAL ASSISTANCE FOR CORRECTIONS STAFF	

I. DEFINITIONS

"Counsel" means a legal advisor, lawyer, or counselor-at-law.

"Legal performance" means actions conforming to the positive rules of law or permitted by law and conforming to Corrections Policy and Procedure.

II. POLICY and PROCEDURE

Corrections employees shall be provided with legal advice and assistance in the performance of their duties and with legal representation in civil actions arising from the legitimate performance of their duties.

A. Counsel Availability

1. Legal advice and representation for Corrections employees may be obtained through the Office of Legal Services for the following:
 - a. Legal actions against the department or institution;
 - b. Court decisions and case law interpretation;
 - c. Offender rights;
 - d. Civil legal actions against Corrections employees for actions taken during the legal performance of their duties;
 - e. Personnel actions against the department;
 - f. Administrative hearings against the department;
 - g. Policy formulation.
2. The Office of Legal Services shall not be available for advice, consultation or representation of Corrections employees if the defense of the employee

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creates a conflict of interest between the Department of Corrections and the employee or former employee, for civil actions outside the scope of their employment, or for criminal action taken against them.

B. Requests for Legal Assistance

1. Requests for advice or representation shall be directed to the institutional warden for institutional employees, the district probation and parole supervisor for probation and parole employees, the employee's supervisor for central office employees, or the designee of the supervisors listed in this subsection.
2. The warden, district supervisor, or central office supervisor shall forward the request with any comments or recommendations to the appropriate Deputy Commissioner, who shall review the request and forward it to the Office of Legal Services. Adequate background information and the reason for the request shall also be forwarded.
3. Corrections employees may make inquiries for legal advice directly to the Office of Legal Services if situations arise which require immediate legal counsel.
 - a. When making a request, the reasons for the assistance requested and the advice given shall be documented in writing by the employee to his supervisor.
 - b. A copy of the documentation shall be forwarded to the Office of Legal Services.

C. Evaluation of Requests for Legal Assistance

1. If substantial evidence indicates the employee's conduct was grossly negligent, illegal or outside the scope and authority of the employee's employment, legal representation may be denied pursuant to KRS 12.212.
2. Upon the denial of legal representation, the Office of Legal Services shall provide the employee a written decision outlining the reason for the denial.

D. Routing of Summons or Law Suits

Upon receipt of a summons or lawsuit, Corrections employees shall adhere to the following procedure:

1. The staff member against whom the summons or law suit is directed shall immediately scan and email or mail the original complaint, summons, and

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any other documents received with them to the Office of Legal Services and retain a copy. At an institution, notice of the suit shall be given to the Warden or his designee.

2. The staff member shall send to the Office of Legal Services a statement with the summons that includes the date that the summons was received and how the summons was received or served on the employee.